

T&E COMMITTEE #1  
September 30, 2013

## MEMORANDUM

September 26, 2013

TO: Transportation, Infrastructure, Energy and Environment Committee

FROM: Glenn Orlin, <sup>GO</sup>Deputy Council Administrator

SUBJECT: Resolution to authorize advance taking for Montrose Parkway West project

On August 23 the County Executive requested authority to condemn, by the advance taking procedure, two temporary easements totaling 8,825sf from Cherington Condominium for the construction of the a portion of the Montrose Parkway West project.

While the road itself was built and opened to traffic several years ago, the planned driveway access from Cherington to Montrose Parkway has not been built. In the interim Cherington has used a temporary access to East Jefferson Street at a point very close to the Montrose Parkway/East Jefferson Street intersection. Once the planned driveway to Montrose Parkway is built and opened to traffic, the interim access to East Jefferson Street would be closed. (Cherington also has access to the north from Montrose Road; that access is unaffected and would remain.)

The Executive's letter transmitting this request is attached as ©1 and a draft resolution is on ©2-3. Maps showing the location of the proposed advance taking are on ©4-5. A plat showing the 2,588sf temporary easement needed to complete the driveway is on ©6. A plat showing the 6,237sf temporary easement needed to close the interim driveway is on ©7.

On September 13 the Department of Transportation (DOT) wrote to the Council of Unit Owners of Cherington Condominium notifying it of the Executive's request and when the Committee and Council would meet on the matter. The letter is on ©8.

DOT staff will be on hand to answer Councilmembers' questions about the Executive's request. The full Council is tentatively scheduled to take action on October 8.




OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

August 23, 2013

TO: Nancy Navarro, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Transmittal of Resolution for Advance Taking  
Montrose Parkway West – C.I.P. Project No. 500311

I am transmitting for Council approval a resolution to authorize the condemnation of land. Executive Order Number 24-04, with an effective date of January 30, 2004, authorized the construction of Montrose Parkway West, C.I.P. Project Number 500311. Construction of the parkway has been completed, but the County has yet to build the new access road for Cherington Condominium off of the parkway, north side, between East Jefferson Street and Old Georgetown road. Two temporary construction easements are needed from the condominium board in order to construct the new access road. A copy of Executive Order 24-04 is attached to this memorandum.

In conjunction with the construction of the access road from Montrose Parkway the existing access from Jefferson Street is being closed. This has created different positions among the owners within the condominium and has made it difficult to resolve the property acquisition process.

In order to complete this project, the County requires possession of the needed temporary easements as soon as practicable. Construction section personnel are anxious to begin this work. Therefore, since it appears that an agreement with the property owner is not imminent, an advance taking is requested for the temporary construction easements needed to construct the new road and remove the current temporary entrance on East Jefferson Street. One temporary easement contains 2,588 square feet of land, the other easement is 6,237 square feet.

IL:rg

Attachments (2)

c: Marc Hansen, County Attorney  
Art Holmes, Director, Department of Transportation

①

RESOLUTION \_\_\_\_\_  
INTRODUCED \_\_\_\_\_  
ADPOTED \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

**By County Council**

**SUBJECT:** Optional Procedure for Condemnation of Land, Advance Taking  
CIP Project No. 500311

In accordance with Article III, Section 40A, Maryland Constitution and Section 49-50,  
2004 Montgomery County Code, as amended.

**BACKGROUND**

The Council has been requested to authorize the condemnation of a temporary construction easement needed to construct a portion of an access road in conjunction with the Montrose Parkway West Project, in accordance with Section 49-50 of the 2004 Montgomery County Code, as amended. The road will provide access from Montrose Parkway to Cherington Condominium property.

1. Acquisition needs to take place as soon as practicable for construction beginning as soon as the needed right of way is obtained.
2. The County has been unable to negotiate a temporary construction easement with the property owner listed below.

**RIGHT OF WAY IN SQUARE FEET**

PROPERTY OWNER	Property Description	TEMPORARY EASEMENT	LIBER/ FOLIO	AMOUNT
Council of Unit Owners of Cherington Condominium	Parcel "P", Washington Science Center Plat 20343	8,825 sq. ft.	15140//17	\$ 52,550.00

**ACTION**

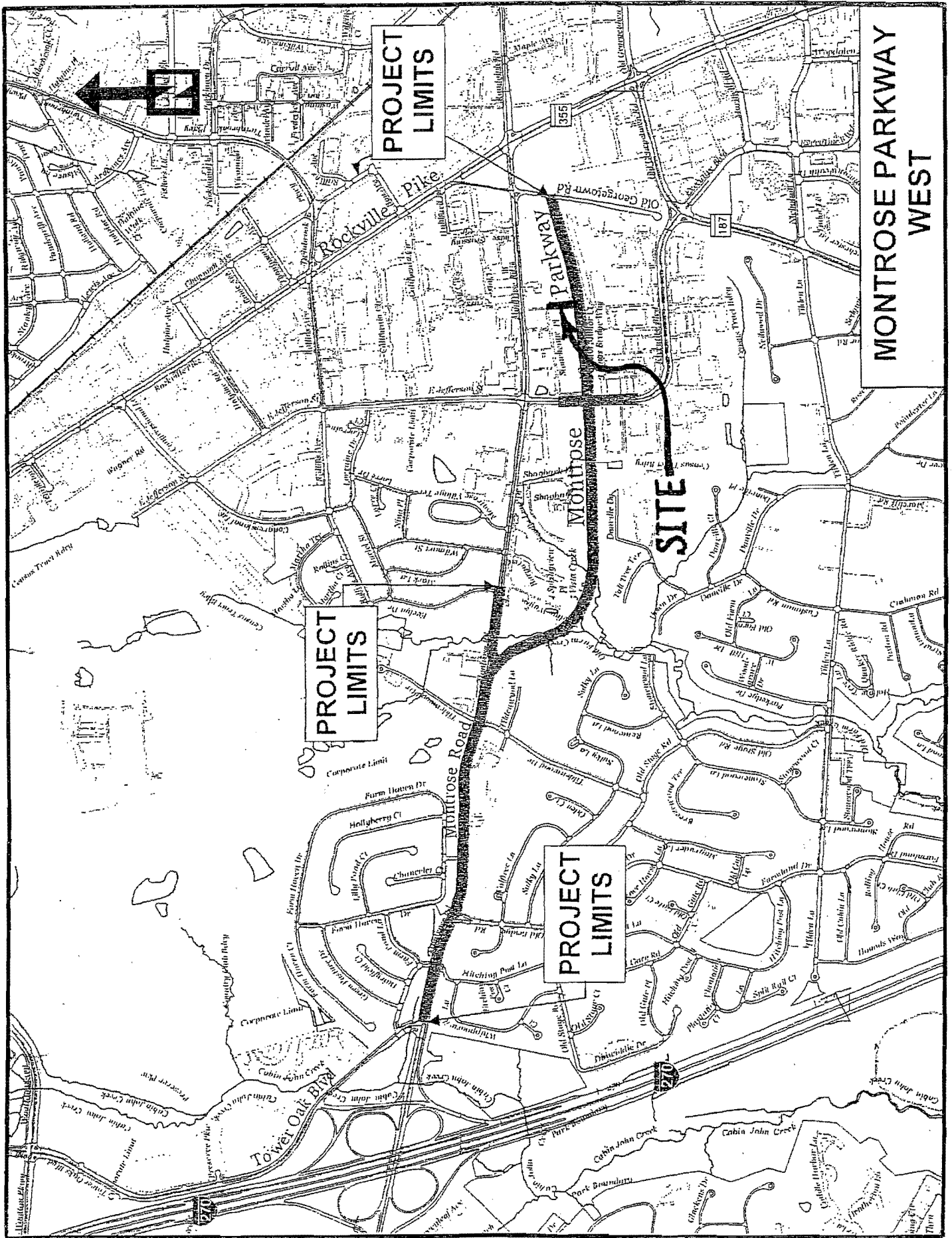
- I. The County Council finds that there is an immediate need to take possession of a portion of the property listed above and approves the Resolution authorizing the condemnation of land under the optional method for condemnation of land for streets or roads specified in Section 49-50, 2004 Montgomery County Code, for the construction of an access road for Montrose Parkway West. In furtherance of this action, the County Council hereby:

1. Guarantees the payment of any amount above the estimated fair market value later awarded by a jury;
  2. Appoints David Lamb, a Maryland Certified General Appraiser, to appraise the fair market value of the property; and
  3. Orders the County Attorney to acquire the listed property under this procedure.
- II. Montgomery County will take immediate possession of the listed property upon filing a petition of advance taking in the Circuit Court for Montgomery County, Maryland, and depositing with the Court the fair market value of the property, as determined by the appraiser appointed above. The County may abandon these proceedings at any time prior to payment of the fair market value of the listed property into the Court.
- III. The County Attorney is hereby directed to take all necessary steps to acquire the property.

THIS IS A CORRECT COPY OF COUNCIL ACTION

---

Linda M. Lauer  
Clerk of the Council



To see all the details that are visible on the screen, use the "Print" link next to the map.



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CHERTON ACCESS ROAD

5

# **SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY TO THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION THAT THE INFORMATION SHOWN HEREON IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT IT REPRESENTS A PLAT OF THE PROPOSED TEMPORARY EASEMENT FOR CHERINGTON ACCESS ROAD IMPROVEMENTS; THAT IT IS BASED UPON AN ACTUAL FIELD SURVEY COMPLETED MAY, 2012; AND THAT IT DELINEATES THE LAND TO BE ACQUIRED BY MONTGOMERY COUNTY IN CONNECTION WITH THIS ROAD IMPROVEMENT.

5/25/12  
DATE  
K. STEVEN LOEWY  
PROPERTY LINE SURVEYOR  
MARTLAND REGISTRATION NO. 405

UNIT 97  
LIBER 18180 / FOLIO 338  
HLA HLA SHIH  
11801 CASTLEGATE COURT  
ACCT. NO. 03228985

TO 200 REBAR & CAP  
WEST MARGIN OF  
EAST JEFFERSON STREET

Temporary Easement: CHERINGTON 2

CHERINGTON CONDOMINIUM"  
PLAT 7464

UNIT 38  
LIBER 38588 / FOLIO 705  
STEVEN A. LOEWY  
6000 STONEHENGE PLACE  
ACCT. NO. 03220833

TEMPORARY EASEMENTS FOR  
CONSTRUCTION OF ENTRANCE

RIGHT OF WAY LINE  
& LINE OF DIVISION

POINT OF  
BEGINNING  
LOEWY

Temporary Easement: LOEWY

EXISTING 10'  
WIDE P.U.E.

ORIGINAL RESERVATION LINE

PARCEL N279  
LIBER 3891 / FOLIO 45  
WILGUS ASSOC. LTD.  
PARTNERSHIP  
ACCT. NO. 01822961

RIGHT OF WAY LINE  
(AS PER PLAT 854)

(PARCEL N)  
WASHINGTON  
SCIENCE CENTER"  
PLAT BOOK 118 PLAT 13977

N 504328.7837  
E 1277673.8155

(PARCEL Q)  
WASHINGTON  
SCIENCE CENTER"  
PLAT 20343

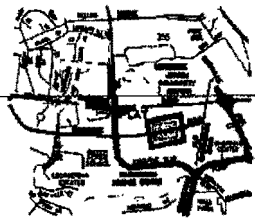
EXISTING LEASE LINE  
AS PER LEASE AGREEMENT  
L. 6831 F. 660

N 504616.2343  
E 1277657.4495

EXISTING 50' WIDE INGRESS/EGRESS  
EASEMENT TO SERVE PARCEL P  
FROM REMNANT OF PARCEL N  
(AS PER PLAT 20343)

PARCEL N208  
LIBER 3891 / FOLIO 45  
WILGUS ASSOC. LTD.  
PARTNERSHIP  
6060 MONTROSE ROAD  
ACCT. NO. 03186873

N 504300.7881  
E 1277656.3581



NEIGHBOR MAP  
SCALE: 1" = 2000'

Parcel Temporary Easement:  
CHERINGTON 2

THE ACCT.

1	6° 42' 54" E	15.26'
2	8° 27' 24" E	24.81'
3	8° 27' 24" E	24.13'
4	8° 07' 24" W	30.87'
5	8° 07' 24" W	11.81'
6	8° 07' 24" W	14.81'
7	8° 07' 24" W	20.81'
8	8° 07' 24" W	3.77'
9	8° 07' 24" W	6.00'
10	8° 07' 24" E	26.35'
11	8° 07' 24" E	15.85'

TEMPORARY EASEMENT  
3475 SQ. FT. OR 0.06326 ACRES  
SHOWN THERE

## **NOTES:**

1. HORIZONTAL MEASUREMENTS SHOWN HEREON IN MARYLAND STATE PLAT AND GRID, MAY 1983, BASED UPON COGS STATIONING REF. FRAME: NAD 83 (CONFORMS TO 1983 EDITION).
2. LOCAL CONTROL PT. 9 IS THE SCALE TRUE GRID COORDINATES: 504328.78, 1277673.82. ALL OTHER COORDINATES SHOWN ARE GRID-BASED UPON THIS LOCAL CONTROL POINT USING A GRID TO GRID CORRECTION FACTOR OF 0.000000.
3. THIS PLAT IS AN ADDITION AND REVISION TO MONTGOMERY COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION RIGHT-OF-WAY PLAT NO. 871 & 872.



SCALE: 1" = 40'

## **CONTROL, TRAVERSE, REMOVAL COORDINATES**

51000 80448.7910 127615.7388 880.61 COGNATE CONC. NEW (MAY 1983 PT)  
51001 80447.8 127616.2 880.61 COGNATE CONC. NEW (MAY 1983 PT)  
51002 80430.0 127616.2 880.61 COGNATE CONC. NEW (MAY 1983 PT)  
51003 80430.0 127616.2 880.61 COGNATE CONC. NEW (MAY 1983 PT)  
51004 80448.7910 127615.7388 880.61 COGNATE CONC. NEW (MAY 1983 PT)  
51005 80448.7910 127615.7388 880.61 COGNATE CONC. NEW (MAY 1983 PT)

PREPARED BY  
MONTGOMERY COUNTY  
DEPARTMENT OF TRANSPORTATION  
100 EDISON PARK DR  
GANTHERSBURG, MARYLAND 20878  
240-777-7257

PROJECT NUMBER: 600311



TEMPORARY EASEMENT PLAT  
ACCESS ROAD  
CONSTRUCTION & REMOVAL  
CHERINGTON ACCESS ROAD

4TH ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND  
RIGHT OF WAY PLAT NO. 862

TAX ACCT.	
1	N 49° 31' 4" E 5.30'
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UNITED STATES POSTAL  
SERVICE  
2011 E. JEFFERSON STREET  
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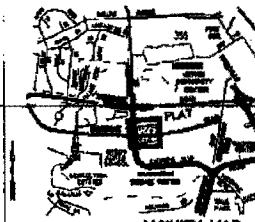
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CHERINGTON CONDOMINIUM"  
PLAT 7816

UNIT 1 - PLAT 7816  
L17807 / P. 450  
LOC T. & T.N. DUONG  
6142 STONEHEDGE PLACE  
ACCT. NO. 03278795

PARCEL N279  
LIBER 3691 / FOLIO 45  
WLGUS ASSOC. LTD.  
PARTNERSHIP  
ACCT. NO. 01822961

RIGHT OF WAY LINE  
(PER R-O-W PLAT #871)



SCALE: 1" = 2000'



CONTROL TRAVERSE BEARING WORKSHEET

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# SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY TO THE MONTGOMERY COUNTY DEPARTMENT OF TRANSPORTATION  
THAT THE INFORMATION SHOWN HEREON IS CORRECT TO THE BEST OF MY KNOWLEDGE  
AND BELIEF, THAT IT DERIVES A PLAT OF THE PROPOSED TEMPORARY EASEMENT FOR  
CHERINGTON ACCESS ROAD IMPROVEMENTS, THAT IT IS BASED UPON AN ACTUAL FIELD SURVEY  
COMPLETED MAY 2002, AND THAT IT DELINEATES THE LAND TO BE ACQUIRED BY  
MONTGOMERY COUNTY IN CONNECTION WITH THIS ROAD IMPROVEMENT.

*[Signature]* 6/23/12  
P. STEPHEN LANE  
PROPERTY LINE SURVEYOR  
MARYLAND REGISTRATION NO. 425

## NOTES:

1. HORIZONTAL ALIGNMENT SHOWN HEREON IS  
MARYLAND STATE PLANE GRID, NAD 83, MDT  
BASED UPON COORD. STATIONS  
REF FRAME: NAD\_83CONGREGATIONEPOCH2011.0000

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DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

September 13, 2013

Arthur Holmes, Jr.  
Director

Eric Erdheim, President  
The Council of Unit Owners of Cherington Condominium  
11901 Grey Hollow Court  
Rockville, MD 20852-5805

Re: The Council of Unit Owners of Cherington Condominium Property  
Temporary Construction Easements for Montrose Parkway West  
Parcel P, Washington Science Center, Rockville, Maryland

Dear Mr. Erdheim:

The County Executive requested, and the Council approved, funding for the construction of Montrose Parkway West a few years ago. The roadway is open, but work remains to be done to provide the permanent access from the parkway to Cherington Condominium. As you know, staff from this department has been working to acquire the necessary right of way to build the access road, but has been unable to do so. Therefore, to avoid any further delay in the construction of the road, the Department of Transportation is asking the County Council for the authority to acquire the two temporary construction easements needed for this project under the County's power of eminent domain - advance take procedure.

If the Council approves the request, the County Attorney will file an Advance Take Petition to immediately take possession of the property referenced above and will deposit funds with the Circuit Court that correspond to the fair market value of the property rights acquired, as determined by a qualified, licensed real estate appraiser. If an Advance Take Petition is filed, further information will be provided to you regarding how to withdraw those funds deposited with the Circuit Court. The funds deposited with the Circuit Court do not necessarily dictate the amount of money ultimately received as a result of further negotiations or a jury trial, if one is necessary.

The advance take request will be addressed by the Transportation, Infrastructure, Energy and Environmental Committee on September 30, 2013, at 10:00 a.m. or shortly thereafter, in the hearing room on the 7<sup>th</sup> floor of the County Office Building, 100 Maryland Avenue, Rockville, and by the full Council on October 8, 2013, in the hearing room on the 3<sup>rd</sup> floor of the same building. Please call the Council Office on the day of the hearing at 240-777-7900 to learn the precise time of the meeting. You are welcome to attend and listen to the discussion of this matter, but there will not be an opportunity to speak at the Council session. Comments may be sent, either by mail, to 100 Maryland Avenue, 5th Floor, Rockville, Maryland 20850, or by e-mail to [county.council@montgomerycountymd.gov](mailto:county.council@montgomerycountymd.gov).

Sincerely,

Holger Serrano, P.E., Deputy Chief  
Division of Transportation Engineering

c: Glenn Loveland

Division of Transportation Engineering

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878 • 240-777-7220 • 240-777-7277  
[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

[montgomerycountymd.gov/311](http://montgomerycountymd.gov/311)  240-773-3556 TTY

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